



FULBRIGHT & JAWORSKI, LLP  
666 FIFTH AVE  
NEW YORK NY 10103-3198

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**AUG 17 2009**

**OFFICE OF PETITIONS**

In re Application of	:
Miyazono, et al.	: DECISION ON APPLICATION
Application No. 10/630,555	: FOR PATENT TERM ADJUSTMENT
Filed: July 30, 2003	:
Atty. Dkt. No.: NY-LUD 5298.5-DIV-US	:

This is a decision on the "RENEWED APPLICATION FOR PATENT TERM EXTENSION," filed December 24, 2008. This matter is properly treated pursuant to 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

The Determination of Patent Term Adjustment mailed December 19, 2008 indicated that the application is entitled to adjustment of 597 days. Applicant argues that the adjustment of 575 days is in error.

A review of the record reveals that the adjustment of 575 was made in error. The restriction requirement mailed April 28, 2006 was vacated and a new non-final Office action mailed July 12, 2006. Thus, in accordance with 37 CFR 1.702(a)(1), the application is entitled to an adjustment of 650 days. The adjustment commenced October 1, 2004, the day after the date that is 14 months after the date that the application was filed, and ended July 12, 2006, the date that the non-final Office action was mailed. See, 37 CFR 1.703(a)(1).

Further review of the application history reveals an error in the reduction of 71 days in connection with the amendment filed June 7, 2007. The amendment filed June 7, 2007 did not place the application in condition for allowance, as indicated in the Advisory Action mailed August 6, 2007. Accordingly, the adjustment is properly reduced 92 days, and not 71 days, in accordance with 37 CFR 1.704(b). The reduction commenced March 29, 2007, the day after the date that is three months after the final Office action was mailed, and ended June 28, 2007, the date that the Notice of Appeal was filed.

The adjustment of 93 days accorded in connection with the mailing of the Notice of Allowance on January 8, 2008 is in error. The amendment filed June 7, 2007 failed to place the application in condition for allowance. Applicants filed a Notice of Appeal on June 28, 2007 and subsequently filed an amendment on September 17, 2007. The amendment filed September 17, 2007 placed the application in condition for allowance which resulted in the mailing of the Notice of Allowance on January 8, 2008, which was within four months of the date of receipt of

the amendment filed September 17, 2007. Thus, the adjustment 93 days under 37 CFR 1.702(a)(2) is not warranted.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 558 days (adjustment of 650 days less reduction of 92 days).

Applicant is further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The Office acknowledges receipt of the required application fee of \$200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions

Enclosure:     Adjusted PAIR Calculation

Day : Monday  
Date: 8/17/2009

# PALM INTRANET

Time: 15:28:54

## PTA Calculations for Application: 10/630555

Application Filing Date:	07/30/2003	PTO Delay (PTO):	668
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	71
Post-Issue Petitions:	0	Total PTA (days):	558
PTO Delay Adjustment:	-39		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		93	
102	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	650		
101	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		575	
100	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		75	
99	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	75		
98	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		92	
97	08/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	71		
95	08/17/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
78	12/19/2008	MAIL NOTICE OF ALLOWANCE			
77	12/19/2008	MAIL EXAMINER'S AMENDMENT			
76	12/19/2008	MAIL-PETITION DECISION - DISMISSED			
75	12/19/2008	PETITION DECISION - DISMISSED			
74	09/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	09/15/2008	EXAMINER'S AMENDMENT COMMUNICATION			
69	09/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
68	09/15/2008	NOTICE OF ALLOWABILITY			
66	09/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
65	08/13/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
64	07/31/2008	DATE FORWARDED TO EXAMINER			
63	07/31/2008	WITHDRAWAL OF NOTICE OF ALLOWANCE			
60	03/03/2008	ISSUE FEE PAYMENT VERIFIED			
59	02/29/2008	PETITION ENTERED			
58	03/03/2008	ISSUE FEE PAYMENT RECEIVED			

57	02/20/2008	PUBS CASE REMAND TO TC			
56	02/22/2008	WORKFLOW - QUERY REQUEST - BEGIN			
54	01/22/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
53	01/11/2008	EXPORT TO INITIAL DATA CAPTURE			
52	01/08/2008	MAIL NOTICE OF ALLOWANCE	93		35
51	01/07/2008	ISSUE REVISION COMPLETED			
50	01/07/2008	DOCUMENT VERIFICATION			
49	01/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	01/07/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
47	01/07/2008	NOTICE OF ALLOWABILITY			
45	12/31/2007	MAIL-PETITION DECISION - GRANTED			
44	12/31/2007	PETITION DECISION - GRANTED			
41	09/17/2007	PETITION ENTERED			
40	08/06/2007	MAIL ADVISORY ACTION (PTOL - 303)			
39	08/03/2007	ADVISORY ACTION (PTOL-303)			
38	06/28/2007	NOTICE OF APPEAL FILED			
37	06/18/2007	MAIL-PETITION DECISION - DISMISSED			
36	06/14/2007	DATE FORWARDED TO EXAMINER			
35	06/07/2007	AMENDMENT AFTER FINAL REJECTION		71	30
34	06/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	03/28/2007	PETITION ENTERED			
32	04/03/2007	DATE FORWARDED TO EXAMINER			
31	03/27/2007	AMENDMENT AFTER FINAL REJECTION			
30	12/28/2006	MAIL FINAL REJECTION (PTOL - 326)			
29	12/23/2006	FINAL REJECTION			
28	10/18/2006	PARALEGAL TD ACCEPTED			
27	10/11/2006	TERMINAL DISCLAIMER FEE PAID			
26	10/17/2006	DATE FORWARDED TO EXAMINER			
25	10/11/2006	RESPONSE AFTER NON-FINAL ACTION			
24	07/12/2006	MAIL NOTICE OF WITHDRAWN ACTION			
23	07/12/2006	MAIL NON-FINAL REJECTION			
22	07/10/2006	NON-FINAL REJECTION			
21	07/10/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
20	05/04/2006	MISCELLANEOUS INCOMING LETTER			

19	04/28/2006	MAIL RESTRICTION REQUIREMENT	575		-1
18	04/27/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
17	01/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	11/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	11/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	07/01/2004	PRELIMINARY AMENDMENT			
12	07/30/2003	PRELIMINARY AMENDMENT			
10	07/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
9	12/15/2003	APPLICATION IS NOW COMPLETE			
8	12/12/2003	APPLICATION DISPATCHED FROM OIPE			
7	12/15/2003	APPLICATION IS NOW COMPLETE			
6	12/10/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	07/30/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	10/15/2003	CASE CLASSIFIED BY OIPE			
3	10/15/2003	CLEARED BY OIPE CSR			
2	09/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/30/2003	INITIAL EXAM TEAM NN			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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